THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.12909 of 2004

Dated : 20.09.2007

Between:

K.Muthenna S/o Linganna

..... PETITIONER

And:

State of Andhra Pradesh, rep., by its Secretary,
Energy, Environment, Science & Technology Department,
Secretariat, Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.12909 of 2004

ORDER:

Petitioner is the husband of one Kanthilyada Gangavva, and theirs is an agricultural family. While so, on 28.08.2003, while the petitioner's wife was cutting grass for the cattle in the land near their agricultural well, she accidentally came in contact with the support wire of the electric pole, which had cross-connection with the main line on the top of the electric pole and thereby she received electric shock and died on the spot. In that connection, the Irbahimpatnam police registered a case in Crime No.67 of 2003 and investigated into. As the said incident happened due to the negligence on the part of the respondent-

authorities, petitioner made several representations to the respondent-authorities seeking compensation, but in vain. Hence, he filed the instant writ petition seeking a Mandamus declaring the action of the respondents in not paying compensation as arbitrary and illegal and for a consequential direction to the respondents to pay compensation of Rs.2,00,000/- to the petitioner.

Counter-affidavit is filed on behalf of the respondents, wherein it is stated that the said unfortunate incident was purely accidental but not because of the negligence on the part of the respondent-authorities. It is also stated that the police who registered the case in Crime No.67 of 2003 closed the case on the ground that the incident was purely accidental, but not on account of the negligence on the part of the electricity authorities. Hence, petitioner cannot seek any compensation from the respondents.

Heard Sri D.Bhaskar Reddy, learned counsel for the petitioner as well as Sri V.Ajay Kumar, learned standing counsel for the respondents.

Admittedly, petitioner's wife died on account of electrocution. The postmortem report as well as the first information report clearly indicate that petitioner's wife died because of shock due to electrocution. The question as to whether the said incident was purely accidental or on account of the negligence on the part of the respondent-authorities is a matter to be gone into by the civil court and this Court, exercising its jurisdiction under Article 226 of the Constitution of India, cannot decide the said disputed question of fact. However, as the death of the petitioner's wife occurred because of electrocution, this Court is of the view that the respondents shall be directed to pay an amount of Rs.50,000/- towards compensation to the petitioner and liberty is given to the petitioner to approach competent civil court for his redressal, which shall decide as to whether the said electrocution was only accidental or on account of the negligence on the part of the respondent-authorities.

At this juncture, learned counsel for the petitioner submitted that suit for damages could not be instituted because of pendency of the writ petition and as the time for filing the suit is over, he requests this Court to grant liberty to the petitioner to file a civil suit.

Accordingly, the writ petition is disposed of with a direction to the respondents to pay an amount of Rs.50,000/- (Rupees fifty thousand only) to the petitioner towards compensation within a period of six weeks from the date of receipt of a copy of this order, and the petitioner is granted liberty to file a civil suit within a period of three months from the date of receipt of a copy of this order. If any suit is filed, the Civil Court may accept and register the same, without raising any objection as to limitation. There shall be no order as to costs.

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20.09.2007

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